IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.25 OF 2005

Balappa Sidhappa Sindur & Guddodagi ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.S.A.Ingawale for Applicant.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 1, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. The Applicant has been arrested in connection with offence registered under Sections 8, 20 and 22 of the N.D.P.S. Act for having found cultivating 66 ganja trees (66 kgs) in his agricultural land admeasuring only 45 gunthas.

3. The first contention pressed into service on behalf of the Applicant is that there is no evidence on record to indicate that the cultivation of ganja was done by the Applicant consciously. It is argued that the Applicant is an agriculturist and grows sugar-cane crop in the land and the contraband item seized from the land was naturally grown crop. There is no substance in this submission. It is seen that 66 ganja trees (66 kgs) have been seized from the land which only admeasures 45 gunthas. At this stage, this evidence is good enough to proceed on the assumption that the Applicant was growing the crop in question consciously. Reliance was placed on the decision of the Rajasthan High Court reported in **1997 (1) Crimes 134 in the case of Manjee vs. State of Rajasthan**, to contend that the Court will not assume that Applicant was growing the offending crop consciously.

4. In the first place, the fact situation in reported decision is that the Applicant therein was arrested, as 5 kgs of ganja was seized. The

argument that there is no evidence to suggest that the crop seized from the land in question qualifies the definition of offending plant and ganja as contained in Section 2 of the Act, also overlooks the fact that expert report has been now received, which suggest that the contraband items seized from the land was ganja. Viewed in this perspective, the reported decision pressed into service by the Counsel for the Applicant is of no avail.

5. It was next contended that there is non-compliance of Section 57 of the Act and which being fatal, the Applicant should be enlarged on bail. Even this contention does not commend to me. The Court below has rightly recorded that there is mention in the case diary about compliance of procedure under Section 57 of the Act. If it is so, at this stage, there is no reason to doubt the correctness of the said statement and the Court, therefore, cannot proceed to hold that there are reasons to believe that the Applicant is not guilty of the alleged offence.

6. Taking any view of the matter, not a case

for bail. Hence, rejected.

7. The Trial Court is, however, directed to expedited the trial and conclude the same, preferably within six months from the date of receipt of writ of this Court.

A.M.KHANWILKAR, J.